

SERVICE DATE - MAY 15, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 1X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN
MIDDLESEX COUNTY, MA

Decided: May 12, 2003

By decision and notice of interim trail use or abandonment (NITU) served on October 12, 2001 (October 2001 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by New York Central Lines, LLC (NYC) of a 4.80-mile portion of a line of railroad known as the Albany Division, Fitchburg Subdivision, extending from milepost QBS 0.00 at Framingham to milepost QBS 4.80 at South Sudbury, in Middlesex County, MA, subject to trail use, public use, and standard employee protective conditions.¹ The October 2001 decision authorized the Town of Sudbury to negotiate with the carrier for interim trail use/rail banking for the 1.4-mile portion of the line that extends north from the Framingham town line to the intersection of the former Penn Central Transportation Company line. The NITU negotiating period was extended through April 7, 2003, by decisions served on April 10, 2002 and October 7, 2002.

On April 11, 2003,² CSXT filed a request to extend the NITU negotiating period until October 7, 2003. CSXT states that the parties have been unable to complete negotiations.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue negotiations, the Board retains jurisdiction and the

¹ This case embraces STB Docket No. AB-55 (Sub-No. 593X), CSX Transportation, Inc.—Discontinuance of Service Exemption—In Middlesex County, MA. CSX Corporation, CSX Transportation, Inc.'s (CSXT) parent company, and Norfolk Southern Corporation jointly acquired control of Conrail Inc. and its wholly owned subsidiary, Consolidated Rail Corporation (Conrail). As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The line to be abandoned is included among the property being operated by CSXT pursuant to the NYC operating agreement.

² On April 14, 2003, CSXT filed a letter confirming that it has not consummated the abandonment.

NITU negotiating period may be extended.³ Under the circumstances, further extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1966); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1977). Accordingly, the NITU negotiating period will be extended until October 7, 2003.⁴

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request to extend the NITU negotiating period for the 1.4-mile line segment described above is granted.
2. The NITU negotiating period is extended until October 7, 2003.
3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

⁴ Although the CSXT request to extend the negotiating period until October 7, 2003, exceeds by three days the normal 180-day extension request, the Board has in the past granted requests for extensions in excess of 180 days and will do so here.